Permit No.: AK-002294-2

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE UNDER THE

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

Golden Valley Electric Association, Inc.

is authorized to discharge from Healy Unit No. 1 and the Healy Clean Coal Project (HCCP), commercial electric generating facilities located near Healy, Alaska.

to receiving waters named the Nenana River,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective March 1, 2000

This permit and the authorization to discharge shall expire at midnight, March 1, 2005

Signed this 15th day of February, 2000

Michael Bussell For
Director, Office of Water, Region 10
U.S. Environmental Protection Agency

TABLE OF CONTENTS

I. SPECIFIC LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date of this permit, the permittee is authorized to discharge wastewater to the Nenana River from outfalls 001 and 002 provided the discharges meets the requirements listed below. This permit does not authorize the discharge of any waste streams, including spills and other unintentional or non-routine discharges of pollutants, that are not part of the normal operation of the facility as disclosed in the permit application.

   a. Wastewater from Healy Unit No. 1 and HCCP shall meet the following effluent limitations and monitoring requirements prior to being commingled with any cooling wastewater. Monitoring shall occur at Outfall 001A which is located at the point where HCCP and Healy Unit No.1 process wastewater discharges from the HCCP wastewater treatment system into the once-through cooling water.

Effluent Parameter	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS[1]	
	Maximum Daily Limit	Average Monthly Limit	Sample Frequency	Sample Type
Flow, MGD	Report	Report	Continuous	Recorder
Total Suspended Solids (TSS), mg/l	100	30	1/week	grab
Oil and Grease, mg/L	20	10	1/week	grab
pH, standard units	6.5 - 8.5	6.5 - 8.5	1/week	grab
Total Aromatic Hydro-carbons (BTEX), mg/L[2]	.01	---	1/week	grab
Lead, mg/L[3]	---	---	1/month	24-Hour Composite

1. Weekly effluent sampling shall occur whenever there is a discharge from the facility.
2. Total aromatic hydrocarbons (benzene, toluene, ethylbenzene, and xylene) in the wastewater shall not exceed 0.01 mg/l, and the benzene constituent of these hydrocarbons shall not exceed 0.005 mg/l.
3. This parameter shall be analyzed as total recoverable. Monitoring for this parameter shall start 36 months after the permit is issued and last for a period of one year. See section I.A.1.j for additional requirements.

   b. The flow (MGD) discharged through Outfall 001 and Outfall 002 shall be measured continuously and reported on the DMR.

   c. The instantaneous maximum temperature for Outfall 001 and 002 shall not exceed 32E C for a total of 10 minutes per month. Temperature (EC) shall be monitored continuously for outfall 001 and 002. Temperature monitoring for Outfall 001 and 002 may be measured at the diversion box. Results shall be reported on the monthly DMR. The total number of minutes that the temperature exceeded 32EC shall be reported on the monthly DMR.

   d. There shall be no discharge of total residual chlorine or free available chlorine.

e. There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

f. There shall be no discharge of wastewater pollutants from fly ash transport water.

g. There shall be no discharge of coal pile runoff.

h. There shall be no discharge of metal cleaning wastewater.

i. There shall be no discharge of floating solids, visible foam, other than in trace amounts, or oily wastes which produce a sheen on the surface of the receiving water.

j. When sampling for lead, the analytical method detection level (MDL) shall be a maximum of 2.5 µg/L. If the analytical results show the MDL is greater than 2.5 µg/L, the permittee shall take an additional sample for analysis. The results from the additional sample shall be submitted as an addendum to the DMR.

B. Ambient Limitations and Monitoring

Thermal Monitoring. Beginning on the effective date of this permit, the permittee is authorized to discharge thermal wastewater from outfall 001 and/or outfall 002 subject to the following mixing zone boundaries, temperature limitations and monitoring requirements:

1. The mixing zone boundaries shall be as follows:

   - The boundaries in the vertical plane shall be from the receiving water surface to the bottom of the receiving water;

   - The longitudinal boundaries shall be from Outfall 002 to a point 600 feet downstream from outfall 001 (the total longitudinal distance shall not exceed 1000 feet),

   - The lateral boundaries shall be 100 feet in width measured from the east bank of the Nenana River.

2. The permittee shall monitor ambient stations 1, 2 and 3 for temperature (EC) once per week. Monitoring at the three stations shall occur on the same day. Station 1 shall be at a point representative of the stream quality above the influences of the facility discharge at outfall 002. Station 2 shall be at a point 650 feet downstream of outfall , and not more than 100 feet laterally from the east bank of the Nenana River. Station 3 shall be at a point 1000 feet downstream from outfall 002, and not more than 100 feet laterally from the east bank of the Nenana River.

3. The temperature at stations 2 and 3 shall not exceed 15EC.

4. If a monitoring station is ice covered, the permittee may assume the temperature at that station is less than 15EC. The permittee shall record, on the monthly DMR, that the temperature is less thans 15EC, and that the station was ice covered.

5. All monitoring results shall be reported on the monthly Discharge Monitoring Report (DMR).

C. Quality Assurance Requirements

Within six months of the effective date of the permit, the permittee shall review, and update if necessary, its Quality Assurance Plan. The permittee shall maintain a copy of the Quality Assurance Plan on site and shall make it available to EPA and ADEC upon request.

D. Best Management Practices (BMP)

The BMP Plan shall incorporate practices to achieve the objectives and specific requirements listed below. The permittee shall fully comply with the BMP Plan along with any amendments. The conditions of the BMP Plan are an enforceable part of this permit.

1. Objectives. The BMP Plan shall be consistent with the following objectives for the control of pollutants:

   a. The number and quantity of pollutants and the toxicity of effluent generated or discharged at the facility shall be minimized by the permittee to the extent feasible by managing each influent waste stream in the most appropriate manner.

   b. Under the BMP Plan, and any Standard Operating Procedures (SOPs) included in the BMP Plan, the permittee shall ensure proper operation and maintenance of the treatment facility.

   c. The permittee shall establish specific objectives for the control of pollutants by conducting the following evaluations:

      • Each facility component or system shall be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as storm water or snow melt runoff, etc. The examination shall include all normal operations and ancillary activities including truck transport system, material storage areas, in-plant transfer, process and material handling areas, loading or unloading operations, other site runoffs, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

      • Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or

other circumstances to result in significant amounts of pollutants reaching surface waters, the program should include a prediction of the direction, rate of flow and total quantity of pollutants which could be discharged from the facility as a result of each condition or circumstance.

2. Requirements. The BMP Plan shall be consistent with the general guidance contained in the publications entitled "Best Management Practices Guidance Document" (U.S. EPA, 1981), and "Storm Water Management for Industrial Activities" (U.S. EPA, 1992) or any subsequent revisions to the above guidance documents. The BMP Plan shall comply with the following conditions:

   a. The BMP Plan shall be documented in narrative form, and shall include any necessary plot plans, drawings or maps.

   b. The BMP Plan shall be developed in accordance with good engineering practices.

   c. The BMP Plan shall be organized and written with the following structure:

      (1) Name and location of the facility.
      (2) Statement of BMP policy.
      (3) Structure, functions, and procedures of the Best Management Practices Committee.
      (4) Specific management practices and standard operating procedures to achieve the BMP objectives, including, but not limited to, the following:

         (a) modification of equipment, facilities, technology, processes, and procedures,
         (b) reformulation or redesign of products,
         (c) substitution of materials,
         (d) improvement in management, inventory control, materials handling or general operational phases of the facility,
         (e) risk identification and assessment,
         (f) materials compatibility,
         (g) good housekeeping,
         (h) preventative maintenance,
         (i) inspections and records,
         (j) security,
         (k) employee training.

3. The BMP Plan shall include the following provisions concerning BMP Plan review:

   a. Be reviewed by plant engineering staff and the plant manager in January and June of each year.

b. Include a statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in this permit. The statement shall be certified by the dated signatures of the plant engineering staff and the plant manager.

4. Establish specific best management practices to meet the objectives identified in the Objective Section above, address each component or system capable of generating or causing a release of significant amounts of pollutants, and identify specific preventative or remedial measures to be implemented.

5. Establish specific best management practices or other measures which ensure that the following specific requirements are met:

a. Ensure that berms, including any pond walls, ditches, dikes, dams and similar water retention structures shall be constructed in a manner such that they reject the passage of unwanted water.

b. Ensure that measures are taken such that pollutant materials removed from the process water and wastewater streams will be retained and not discharged to waters of the United States.

c. Ensure that all water control devices, including but not limited to structures and berms, and all solids retention structures such as berms, dikes, and pond structures and dams, shall be maintained to continue their effectiveness and to protect from unexpected and catastrophic failure.

d. Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA) and the Alaska Solid Waste Management Regulations (18 AAC 60). Management practices required under RCRA regulations shall be referenced in the BMP Plan.

e. Reflect requirements for Spill Prevention, Control, and Countermeasure (SPCC) plans under Section 311 of the Clean Water Act and 40 CFR Part 112, and may incorporate any part of such plans into the BMP Plan by reference.

f. Ensure that all storm water/snow melt runoff on the facility site is diverted and/or collected such that it does not discharge to the Nenana River.

g. The plan shall describe measures that prevent or minimize fugitive dust emissions from coal handling areas. At a minimum, the facility shall employ oil/water spraying (or its equivalent) of coal piles to prevent fugitive dust emissions. The facility shall establish procedures to minimize off-site tracking of coal dust. To prevent off-site tracking the facility may consider specially designed tires, or

washing vehicles in a designated area before they leave the site, and controlling the wash water.

h. The plan shall describe measures that prevent or minimize spills and/or contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the facility shall:

- Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container.

- Develop procedures to deal with leakage or spillage from vehicles or containers, and ensure that proper protective measures are available for personnel and environment.

i. The plan shall describe measures that prevent or minimize spills and/or contamination of storm water runoff from fuel oil unloading areas. At a minimum the facility shall use the following measures or their equivalent:

- Use containment curbs in unloading areas

- During deliveries station personnel familiar with spill prevention and response procedures shall be present to ensure that any leaks or spills are immediately contained and cleaned up.

- Use spill and overflow protection (drip pans and other containment devices shall be placed beneath fuel oil connectors to contain any spillage that may occur during deliveries or due to leaks at the connectors).

j. The plan shall describe measures that prevent or minimize spills and/or the contamination of storm water runoff from chemical loading/unloading areas. At a minimum the permittee shall use the following measures or their equivalent:

- use containment curbs at chemical loading/unloading areas to contain spills

- During deliveries station personnel familiar with spill prevention and response procedures shall be present to ensure that any leaks or spills are immediately contained and cleaned up.

Where practicable chemical loading/unloading areas should be covered.

k. The plan shall describe measures that prevent or minimize spills and/or the contamination of storm water runoff from loading and unloading areas. The facility may consider covering the loading area, minimizing storm water runon to the loading area by grading, berming, or curbing the area around the loading area

to direct storm water away from the area, or locate the loading/unloading equipment and vehicles so that leaks can be contained in existing containment and flow diversion systems.

l. The plan shall describe measures that prevent or minimize spill and/or contamination of storm water runoff from above ground liquid storage tanks. At a minimum the facility shall employ the following measures or their equivalent:

- Use protective guards around tanks
- Use containment curbs
- Use spill and overflow protection (drip pans and other containment devices shall be placed beneath chemical connectors to contain any spillage that may occur during deliveries or due to leaks at these connectors)
- Use dry cleanup methods

m. The plan shall describe measures that prevent or minimize spills and/or contamination of storm water runoff from liquid storage tanks. At a minimum the facility shall employ the following measures or their equivalent:

- Comply with applicable State and Federal laws
- Containment berms

n. The plan shall describe measures to reduce the potential for an oil spill, or a chemical spill. At a minimum the structural integrity of all above ground tanks, pipelines, pumps and other related equipment shall be visually inspected on a weekly basis.

o. The plan shall describe measures to reduce the potential for storm water contamination in switchyard areas. The facility may consider level grades and gravel surfaces to retard flows and limit the spread of spills; collection of storm water runoff in perimeter ditches; compliance with SPCC regulations.

p. All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the body or container. Unacceptable vehicles shall be repaired as soon as practicable.

q. Plant procedures shall be established to reduce and/or control the tracking of ash or residue from ash loading areas including, where practicable, requirements to clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before each loaded vehicle departs.

r. The plan shall describe measures that prevent or minimize contamination of storm water runoff from areas adjacent to disposal ponds or landfills. The facility shall develop procedures to:

- reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles.

- reduce ash residue on exit roads leading into and out of residue handling areas.

s. The plan shall describe measures that prevent or minimize contamination of storm water from material storage areas (including areas used for temporary storage of miscellaneous products, and construction materials stored in lay down areas). The facility may consider flat yard grades, runoff collection in graded swales or ditches, erosion protection measures (e.g. concrete chutes, riprap, stilling basins) at steep outfall sites, or covering lay down areas, storing the materials indoors, covering the material with a temporary covering made of polyethylene, polyurethane, polypropylene, or Hypalon, or minimizing storm water runon by enclosing the area or building a berm around the area.

6. The permittee shall maintain a copy of the BMP Plan on site and shall make it available to EPA and ADEC upon request.

7. The permittee shall amend the BMP Plan whenever there is a change in the facility design, construction, operations, or maintenance which materially affect the facility's potential for discharge of significant amounts of hazardous or toxic pollutants into the waters of the United States.

8. If the BMP Plan proves to be ineffective as determined by the permittee, EPA, or ADEC, in achieving the general objective of preventing the release of significant amounts of pollutants to waters of the United States and the specific objectives and requirements listed under this section, the permit and/or the BMP Plan shall be subjected to modification to incorporate the revised BMP requirements.

E. Definitions

1. "Average Monthly Limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges measured during that month.

2. "Bypass" means the intentional diversion of waste streams from any portions of a treatment facility.

3. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement. The "daily discharge" is calculated as the average measurement of the pollutant over the day.

4. A "grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

5. "Maximum Daily Limit" means the highest allowable "daily discharge."

6. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which caused them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

7. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, maintenance, or careless or improper operation.

8. A "24-hour composite" sample shall mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.

9. Low volume wastes - is wastewater from all sources except those for which specific limitations are otherwise established. Low volume wastewater include, but are not limited to: wastewaters from wet scrubber air pollution control systems, ion exchange water treatment system, water treatment evaporator blowdown, laboratory and sampling streams, boiler blowdown, floor drains, cooling tower basin cleaning wastes, and recirculating house service water systems.

II. GENERAL MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

C. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form. The reports shall be submitted monthly and are to be postmarked by the 20th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part IV.H.,

Signatory Requirements, and submitted to the Director, Office of Water and the State agency at the following addresses:

original to: United States Environmental Protection Agency (EPA) Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

copy to: Alaska Department of Environmental Conservation (ADEC)
Northern Regional Office
610 University Ave., Suite 3642
Fairbanks, Alaska 99709

D. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

E. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;

2. The individual(s) who performed the sampling or measurements;

3. The date(s) analyses were performed;

4. The individual(s) who performed the analyses;

5. The analytical techniques or methods used; and

6. The results of such analyses.

F. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or ADEC at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. Twenty-four Hour Notice of Noncompliance Reporting.

1. The following occurrences of noncompliance shall be reported by telephone within 24 hours, to the NPDES Compliance Unit in Seattle, Washington at (206) 553-1846, from the time the permittee becomes aware of the circumstances:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G,. Bypass of Treatment Facilities.);

b. Any upset which exceeds any effluent limitation in the permit (See Part III.H., Upset Conditions.); or

c. Violation of a maximum daily discharge limitation contained within Section I.A.1.a, or a instantaneous limit contained within of Section 1.A1.b. of the permit.

2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. The estimated time noncompliance is expected to continue if it has not been corrected; and

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by phone, (206) 553-1846.

4. Reports shall be submitted to the addresses in Part II.C., Reporting of Monitoring Results.

H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.C. are submitted. The reports shall contain the information listed in Part II.G.2.

I. Inspection and Entry. The permittee shall allow the Director or an authorized representative (including an authorized contractor acting as a representative of the Administrator) and ADEC, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions.

1. Civil and Administrative Penalties. Any person who violates a permit condition implementing Sections Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil or administrative penalty, not to exceed the maximum amounts authorized by Sections 309(d) and 309(g) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S. C. § 2461 note) as amended by the Debt collection Improvement Act (31 U.S.C. § 3701 note).

2. Criminal Penalties:

a. Negligent Violations. Any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(1) of the Act.

b. Knowing Violations. The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall, upon conviction, be punished by a fine and/or imprisonment as specified in Section 309(c)(2) of the Act.

c. Knowing Endangerment. Any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine and/or imprisonment as specified in Section 309(c)(3) of the Act.

d. False Statements. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, must be punished by a fine and/or imprisonment as specified in Section 309(c)(4) of the Act.

C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

G. Bypass of Treatment Facilities:

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.

2. Notice:

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting.

3. Prohibition of bypass.

a. Bypass is prohibited and the Director or ADEC may take enforcement action against a permittee for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under paragraph 2 of this section.

b. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting; and

d. The permittee complied with any remedial measures required under Part III.D., Duty to Mitigate.

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

IV. GENERAL REQUIREMENTS

A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director and ADEC as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   a. One hundred micrograms per liter (100 ug/l);

   b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile, five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

   c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

   d. The level established by the Director in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   a. Five hundred micrograms per liter (500 ug/l);

   b. One milligram per liter (1 mg/l) for antimony;

   c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

   d. The level established by the Director in accordance with 40 CFR 122.44(f).

B. Planned Changes. The permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part IV.A.1.

C. Anticipated Noncompliance. The permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

D. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

E. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

F. Duty to Provide Information. The permittee shall furnish to the Director and ADEC, within a reasonable time, any information which the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this permit.

G. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit such facts or information.

H. Signatory Requirements. All applications, reports or information submitted to the Director and ADEC shall be signed and certified.

1. All permit applications shall be signed as follows:

   a. For a corporation: by a responsible corporate officer.

   b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

   c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and

   b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of

plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to authorization. If an authorization under paragraph IV.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.H.2. must be submitted to the Director and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

I. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

L. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers. This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.